

4-12-1. Short title.

This chapter is known as the "Utah Commercial Feed Act."

Amended by Chapter 30, 1992 General Session

4-12-2. Definitions.

As used in this chapter:

(1) "Adulterated commercial feed" means any commercial feed:

(a) (i) that contains any poisonous or deleterious substance that may render it injurious to health;

(ii) that contains any added poisonous, added deleterious, or added nonnutritive substance that is unsafe within the meaning of 21 U.S.C. Sec. 346, other than a pesticide chemical in or on a raw agricultural commodity or a food additive;

(iii) that contains any food additive or color additive that is unsafe within the meaning of 21 U.S.C. Sec. 348 or 379e;

(iv) that contains a pesticide chemical in or on a raw agricultural commodity which is unsafe within the meaning of 21 U.S.C. Sec. 346a unless it is used in or on the raw agricultural commodity in conformity with an exemption or tolerance prescribed under 21 U.S.C. Sec. 346a and is subjected to processing such as canning, cooking, freezing, dehydrating, or milling, so that the residue, if any, of the pesticide chemical in or on such processed feed is removed to the extent possible through good manufacturing practices as prescribed by rules of the department so that the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity in 21 U.S.C. Sec. 346a;

(v) that contains viable weed seeds in amounts exceeding limits established by rule of the department; or

(vi) that contains a drug that does not conform to good manufacturing practice as prescribed by federal regulations promulgated under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., for medicated feed premixes and for medicated feeds unless the department determines that such regulations are not appropriate to the conditions that exist in this state; or

(b) that has a valuable constituent omitted or abstracted from it, in whole or in part, or its composition or quality falls below or differs from that represented on its label or in labeling.

(2) "Brand name" means any word, name, symbol, or device that identifies the distributor or registrant of a commercial feed.

(3) "Commercial feed" means all materials, except unadulterated whole unmixed seeds or unadulterated physically altered entire unmixed seeds, that are distributed for use as feed or for mixing in feed; provided, that the department may exempt from this definition by rule, or from specific sections of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances if the commodities, compounds, or substances are not inter-mixed or mixed with other materials, and are not adulterated within the meaning of Subsection (1)(a).

(4) "Customer-formula feed" means commercial feed that consists of a mixture of commercial feeds or feed ingredients manufactured according to the specific instructions of the final purchaser.

- (5) "Distribute" means to:
 - (a) offer for sale, sell, exchange, or barter commercial feed; or
 - (b) supply, furnish, or otherwise provide commercial feed to a contract feeder.
- (6) "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than man and articles other than feed intended to affect the structure or any function of the animal body.
- (7) "Feed ingredient" means each constituent material in a commercial feed.
- (8) "Label" means any written, printed, or graphic matter upon or accompanying a commercial feed.
- (9) "Manufacture" means to grind, mix, blend, or otherwise process a commercial feed for distribution.
- (10) "Mineral feed" means a commercial feed intended to supply primarily mineral elements or inorganic nutrients.
- (11) "Misbranded" means any commercial feed, whether in a container or in bulk, that bears a label that is false or misleading in any particular, or that bears a label that does not strictly conform to the labeling requirements of Section 4-12-5.
- (12) "Official sample" means a sample of commercial feed taken by the department and designated as "official."
- (13) "Percent" or "percentage" means percentage by weight.
- (14) "Ton" means a net weight of two thousand pounds avoirdupois.

Amended by Chapter 179, 2007 General Session

4-12-3. Department authorized to make and enforce rules -- Cooperation with state and federal agencies authorized.

The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are necessary to administer and enforce this chapter and may cooperate with, or enter into agreements with, other agencies of this state, other states, and agencies of the United States in the administration and enforcement of this chapter.

Amended by Chapter 382, 2008 General Session

4-12-4. Distribution of commercial and customer-formula feed -- Registration or permit required -- Application -- Fees -- Expiration -- Renewal.

(1) No person may distribute a commercial feed in this state which is not registered with the department. Application for registration shall be made to the department upon forms prescribed and furnished by it accompanied with an annual registration fee, determined by the department pursuant to Subsection 4-2-2(2), for each brand name of commercial feed registered. Upon receipt of a proper application and payment of the appropriate fee, the commissioner shall issue a registration to the applicant allowing the applicant to distribute the registered commercial feed in this state through December 31 of the year in which the registration is issued, subject to suspension or revocation for cause.

(2) A person who distributes customer-formula feed is not required to register such feed, but is required to obtain a permit from the department before distribution.

Application for a customer-formula feed distribution permit shall be made to the department upon forms prescribed and furnished by it accompanied with an annual permit fee determined by the department pursuant to Subsection 4-2-2(2). Upon receipt by the department of a proper application and payment of the appropriate fee as prescribed by the department, the commissioner shall issue a permit to the applicant allowing the applicant to distribute customer-formula feed in this state through December 31 of the year in which the permit is issued, subject to suspension or revocation for cause.

(3) Each registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee. Each renewal fee shall be paid on or before December 31 of each year.

(4) A customer-formula feed permit is renewable for a period of one year upon the payment of an annual permit renewal fee in an amount equal to the current applicable original permit fee. Each permit renewal fee shall be paid on or before December 31 of each year.

Amended by Chapter 130, 1985 General Session

4-12-5. Labeling requirements for commercial and customer-formula feed specified.

(1) Each container of commercial feed, except customer-formula feed, distributed in this state shall bear a label setting forth:

- (a) the name and principal address of the registrant;
- (b) the product or brand name, if any, under which it is distributed;
- (c) the feed ingredients stated in the manner prescribed by rule of the department;
- (d) the net cumulative weight of the container and contents;
- (e) the lot number or some other means of lot identification; and
- (f) any information prescribed by rule of the department considered necessary for the safe and effective use of the feed.

(2) (a) Each bulk shipment of commercial feed, except customer-formula feed, distributed in this state shall be accompanied with a printed or written statement specifying the information in Subsection (1)(a) through (f) of this section.

(b) The statement shall be delivered to the purchaser at the time the bulk feed is delivered.

(3) Each container or bulk shipment of customer-formula feed distributed in this state shall bear a label or be accompanied with an invoice setting forth:

- (a) the name and principal address of the manufacturer;
- (b) the name and principal address of the purchaser;
- (c) the date of delivery;
- (d) the net weight of each registered commercial feed used in the mixture and the net weight of each other ingredient used; and
- (e) any information prescribed by rule of the department considered necessary for the safe and effective use of the customer-formula feed.

Amended by Chapter 179, 2007 General Session

4-12-6. Enforcement -- Inspection and samples authorized -- Methods for sampling and analysis prescribed -- Results to be forwarded to registrant or permittee -- Warrants.

(1) The department shall periodically sample, inspect, analyze, and test commercial feeds distributed within this state and may enter any public or private premises or vehicle for the purpose of determining compliance with this chapter. It may also in conjunction with such activities inspect records to determine compliance with this chapter.

(2) Methods for sampling and for analyses of feed ingredients, mineral ingredients, or other ingredients, or analyses of commercial feed mixtures (customer-formula feeds) shall be made in accordance with methods published by the Association of Official Analytical Chemists or other generally recognized methods.

(3) The department shall be guided by the official sample in determining whether a commercial feed is misbranded, adulterated, or otherwise deficient.

(4) The results of all tests of official samples shall be forwarded by the department to the registrant or permittee, as the case may be, to the address specified on the container, label, or on the written statement or invoice. In addition, the department shall furnish to the registrant or permittee part of any official sample which it determines is misbranded or adulterated upon written request to the department made by the registrant within 30 days after receipt of the unsatisfactory test results.

(5) The department may proceed immediately, if admittance is refused, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

Enacted by Chapter 2, 1979 General Session

4-12-7. Suspension or revocation authorized -- Refusal to register or issue permit authorized -- Grounds -- Stop sale, use, or removal order authorized -- Court action -- Procedure -- Costs.

(1) The department may suspend or revoke the registration or permit, respectively, of any brand name of commercial feed or customer-formula feed, or refuse to register or issue a permit for any brand name or product of commercial feed, upon satisfactory evidence that the registrant or permittee has used fraudulent or deceptive practices in the registration of a commercial feed or in the issuance of a permit, or in its distribution in this state.

(2) The department may issue a "stop sale, use, or removal order" to the distributor or owner of any designated commercial feed or lot of commercial feed which it finds or has reason to believe is misbranded, adulterated, or is otherwise in violation of this chapter. The order shall be in writing and no commercial feed subject to it shall be moved, offered, or exposed for sale, except upon subsequent written release by the department. Before a release is issued, the department may require the distributor or owner of the "stopped" commercial feed or lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.

(3) The department is authorized in a court of competent jurisdiction to seek an

order of seizure or condemnation of a commercial feed which violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to prevent the violation of this chapter. No bond shall be required of the department in an injunctive proceeding brought under this section.

(4) If condemnation is ordered, the commercial feed shall be disposed of as the court directs; provided, that in no event shall it order condemnation without giving the registrant or other person an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the commercial feed into conformance, or for permission to remove it from the state.

(5) If the court orders condemnation, court costs, fees, storage, and other costs shall be awarded against the claimant of the commercial feed.

Enacted by Chapter 2, 1979 General Session

4-12-8. Unlawful acts specified.

No person in this state shall:

- (1) manufacture or distribute adulterated or misbranded commercial feed;
- (2) adulterate or misbrand any commercial feed;
- (3) distribute agricultural products such as whole seed, hay, straw, stover, silage, cobs, husks, or bulbs which are adulterated;
- (4) remove or dispose of any commercial feed in violation of a "stop sale, use, or removal order;" or
- (5) distribute any commercial feed which is not registered or any customer-formula feed which is not subject to permit.

Enacted by Chapter 2, 1979 General Session